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15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 DENIS BOURQUE, Derivatively on behalf of
18 Nominal Defendant, ZOOMPASS HOLDINGS,
19 INC.,

20 Plaintiff,

21 v.

22 JOHN ROBERT LEE, STEVE ROBERTS,
23 JONATHAN TONDEUR, and EDWARD
24 YEW,

25 Defendants,

26 and

27 ZOOMPASS HOLDINGS, INC.

28 Nominal Defendant.

Case No. 2:18-cv-00776-JAD-CWH

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30 **STIPULATION AND [PROPOSED]**
31 **ORDER CONCERNING SERVICE**
32 **OF PROCESS AND STAYING**
33 **PROCEEDINGS**

34 WHEREAS Plaintiff Denis Bourque (“Plaintiff”) filed his Complaint on March 23, 2018, in
35 the Eighth Judicial District Court for Clark County of the State of Nevada, in which he alleged, among
36 other things, breaches of fiduciary duty, unjust enrichment, and waste of corporate assets derivatively
37 on behalf of Nominal Defendant Zoompass Holdings, Inc. (the “Nominal Defendant”) against
38 Defendants John Robert Lee, Steve Roberts, Edward Yew, and Jonathan Tondeur (collectively, the
39 “Individual Defendants,” and together with the Nominal Defendant, the “Defendants”);

1 WHEREAS the Individual Defendants filed a Notice of Removal to this Court on April 27,
2 2018;

3 WHEREAS the Individual Defendants filed an Amended Notice of Removal on May 1, 2018;

4 WHEREAS Plaintiff does not object to the Removal of the matter pursuant to the terms of this
5 Stipulation;

6 WHEREAS pending before the United States District Court for the District of New Jersey is
7 *Patel v. Zoompass Holdings, Inc.*, 2:17-cv-03831 (the “Securities Class Action”), a putative class
8 action alleging violations of the Securities Exchange Act of 1934 and regulations promulgated
9 thereunder;

10 WHEREAS the plaintiff in the Securities Class Action filed an Amended Complaint on
11 November 20, 2017, the defendants therein filed a Motion to Dismiss the Amended Complaint on
12 January 19, 2018, an opposition thereto was filed on March 20, 2018, and a reply in support thereof
13 was filed on April 19, 2018;

14 WHEREAS pending before the United States District Court for the District of Nevada, the
15 Honorable Andrew P. Gordon presiding, is *Kluge v. Lee*, 2:17-cv-02578, filed on October 4, 2017 and
16 consolidated with *Johnson v. Lee*, 2:17-cv-2949 (the “2017 Derivative Action”), a putative derivative
17 action on behalf of Nominal Defendant alleging, among other things, breach of fiduciary duty;

18 WHEREAS the parties in the 2017 Derivative Action have stipulated to, and the Court has so-
19 ordered, a stay of proceedings in that case;

20 WHEREAS Plaintiff’s Complaint in the above-captioned matter alleges certain misconduct
21 that is similar to the misconduct alleged in the Securities Class Action and the 2017 Derivative Action;
22 and

23 WHEREAS Plaintiff, the Individual Defendants, and the Nominal Defendant wish to promote
24 the efficient and orderly administration of justice by coordinating the above-captioned derivative
25 matter and the 2017 Derivative Action with the Securities Class Action while simultaneously litigating
26 the Securities Class Action.

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the
2 undersigned counsel for the Plaintiff, the Individual Defendants, and the Nominal Defendant. that:

3 (1) The undersigned counsel for the Individual Defendants hereby accept service of the
4 Complaint filed in the above-captioned matter on behalf of all Defendants, including
5 the Individual Defendants, as of the date set forth below;

6 (2) By authorizing their counsel to accept service on their behalf, the Individual Defendants
7 waive any and all objections to the absence of a summons or of service, and also waive
8 any and all objections otherwise relating to personal jurisdiction of this Court over
9 Defendants, but do not waive any other defense, objection, or ground for dismissal that
10 they may have otherwise raised in response to this action.

11 (3) All activity in the above-captioned matter shall be stayed, and the Defendants shall
12 need not answer, move, or otherwise respond to Plaintiff's Complaint, or any amended
13 complaint, during the pendency of the stay;

14 (4) Should any of the Defendants produce during the pendency of the stay any documents
15 to any plaintiffs in the Securities Class Action, to any plaintiffs in any related derivative
16 actions, or to any purported shareholders who made a books and records demand,
17 Defendants will produce to Plaintiff a copy of the same documents, subject to the
18 parties entering into a confidentiality agreement and/or protective order;

19 (5) During the pendency of the stay, Defendants shall include Plaintiff in any mediation
20 and any formal settlement talks with the plaintiffs in the Securities Class Action and
21 shall include Plaintiff in any mediation and any formal settlement talks with any
22 plaintiff in any related derivative lawsuit;

23 (6) Plaintiff may lift the stay of the above-captioned matter at any time by (i) making a
24 request to the Court, and (ii) by transmitting notice to counsel for the nominal defendant
25 via e-mail at the e-mail addresses listed below;

26 (7) Defendants shall promptly notify Plaintiff of any related derivative lawsuits that any
27 of them become aware of;

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- (8) During the pendency of the stay, Plaintiff may amend the Complaint;
- (9) The Individual Defendants and the Nominal Defendant shall answer, move, or otherwise respond to Plaintiff's Complaint, or instead the operative amended complaint, if any amended complaint has been filed, within sixty (60) days after they receive a request to lift the stay, except as described in Paragraph 11, *infra*;
- (10) Should any other derivative case be filed in any forum subsequent to the above-captioned matter that alleges and seeks relief from the same or similar alleged misconduct as that alleged in the above-captioned matter, the Individual Defendants and the Nominal Defendants shall either agree to, or move for, a stay of said later-filed action;
- (11) Should a later-filed action such as is described in Paragraph 10, *supra*, not be stayed, Plaintiff in the above-captioned matter may lift the stay of the above-captioned matter by following the requirements of Paragraph 6, *supra*, but in such circumstance the Individual Defendants and the Nominal Defendant shall answer, move, or otherwise respond to Plaintiff's Complaint, or instead the operative amended complaint, if any amended complaint has been filed, within twenty (20) days after they receive a request to lift the stay; and
- (12) Should any other derivative case be filed in any forum that alleges and seeks relief from the same or similar alleged misconduct as that alleged in the above-captioned matter, the Individual Defendants and the Nominal Defendant shall never move to stay the above-captioned action in deference to the later-filed action.

Dated: May 25, 2018

MCDONALD CARANO, LLP

By: /s/ Pat Lundvall
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17 Nominal Defendant Zoompass Holdings, Inc.*

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2 *Attorneys for Plaintiff Denis Bourque*

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IT IS SO ORDERED.

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7 DATED: May 31, 2018

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11 C.W. HOFFMAN, JR.
12 UNITED STATES MAGISTRATE JUDGE

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CERTIFICATE OF SERVICE

I certify that on the 25th day of May, 2018, I caused a true and correct copy of the foregoing **STIPULATION AND [PROPOSED] ORDER CONCERNING SERVICE OF PROCESS AND STAYING PROCEEDINGS** to be electronically serviced to counsel of record for all parties via the United States District Court's CM/ECF e-filing and service system.

____/s/ Witty Huang
An employee of Muehlbauer Law Office, Ltd.

MUEHLBAUER LAW OFFICE, LTD.